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2 IN THE UNITED STATES DISTRICT COURT
3 FOR THE WESTERN DISTRICT OF VIRGINIA
4 BIG STONE GAP DIVISION
5

6 In the Matter of the Search)
7 of:) Case No. 2:19mj18-PMS
8 1443 Middle Wallens Creek)
Road, Duffield, Virginia)

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10 TRANSCRIPT OF TELEPHONIC SEARCH WARRANT
11 HONORABLE JUDGE PAMELA MEADE SARGENT PRESIDING
12 MONDAY, JULY 29, 2019
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24 Proceedings recorded FTR and transcribed using Computer-Aided
25 Transcription

1 (Telephonic search warrant began at 3:28 p.m.)

2 THE COURT: That site, is it in Scott County or Lee
3 County?

4 MARSHAL SATTERWHITE: It's in Lee County, ma'am.
5 The address 1443 Middle Wallens Creek. That's W-a-l-l-e-n-s.
6 Middle Wallens Creek Road, Duffield, Virginia. That's the
7 primary residence of Misty Lynn Nelms.

8 THE COURT: And Miss Nelms is on pretrial
9 supervision in our court on a felony drug indictment, I
10 believe?

11 MARSHAL SATTERWHITE: Yes, ma'am, that's correct.
12 She was released on bond on June 4, 2019.

13 THE COURT: Now you're on site at her residence
14 because you believe that the person of Mr. Mallory is present?

15 MARSHAL SATTERWHITE: That's correct. Jeremy David
16 Mallory, for which a federal arrest warrant for pretrial
17 supervision has been issued or was issued on -- it was issued
18 on July 19th, 2019. Received by our office on the same date.
19 It's unexecuted and active in NCIC.

20 THE COURT: And I believe that warrant was issued
21 for a violation of his supervised -- excuse me, his pretrial
22 supervision.

23 MARSHAL SATTERWHITE: Yes, ma'am, that's correct.

24 THE COURT: And I believe the violation of his
25 pretrial supervision is alleged that he was on home detention

1 subject to electronic monitoring and that he cut off his
2 electronic monitoring unit and has absconded.

3 MARSHAL SATTERWHITE: That's correct, ma'am, on that
4 date. On July 19th, per the detention -- or per U.S.
5 Probation, he cut his ankle bracelet and left his approved
6 home at about 10:30 a.m.

7 THE COURT: Now, if you'd go forward and tell me
8 what evidence you have that makes you believe that Mr. Mallory
9 is present at 1443 Middle Wallens Creek, Duffield, Virginia.

10 MARSHAL SATTERWHITE: Ma'am, initially when
11 Miss Nelms and Mr. Mallory were arrested, they were arrested
12 together on June 4, 2019, known to be dating during their
13 initial arrest.

14 While -- after, of course, Miss Nelms received bond
15 the first day, but Mr. Mallory remained incarcerated. She was
16 one of his primary contacts on the jail phone, phone system.
17 Further, it was provided to us by the regional jail that
18 Mr. Mallory and Mr. Pennington, another co-defendant, actually
19 got in a fight at the jail over Miss Nelms because
20 Mr. Pennington has had a past relationship with Miss Nelms.

21 So the day of July 19th, he cut his ankle bracelet
22 and left. Her source information -- or per the estranged wife
23 that Mr. Mallory lived with, there was a vehicle matching the
24 description of Miss Nelms at the bottom of their subdivision.
25 And when I asked the -- when I asked the wife who -- if she

1 knew who had a car like that, she said that Misty Nelms did.
2 Probation Parole questioned her last Monday during one of her
3 office contacts, regular routine office contacts. Miss Nelms
4 stated that --

5 THE COURT: When you say "her", are you talking
6 about Miss Nelms?

7 MARSHAL SATTERWHITE: Yes, ma'am.

8 Miss Nelms was at her regular scheduled office
9 contact with probation and urine screen last Monday.
10 Probation specifically asked her about Mr. Mallory, advised
11 her that he was wanted. She said that the day he ran, he
12 called her, but she hadn't heard from him since.

13 Last, I think last -- approximately last Thursday,
14 Special Agent Tim with ATF received information from another
15 source who was arrested in Lee County who specifically told --
16 specifically told Mr. Tim, asked if he was looking for Jeremy
17 Mallory. And he said yes. And he said, if you find Misty
18 Nelms, he'll be with Misty Nelms.

19 So this date, myself, Deputy Marshal Marcus Ball,
20 two task force officers, and U.S. Probation Officer Matt Neese
21 and Marcus Riley arrived at the home. Once we pulled in the
22 driveway, we witnessed that Miss Nelms had pulled her vehicle
23 back around the back of the house out of the driveway so it
24 could not be seen from the road. But she was located on a
25 lawn mower. As we pulled in the driveway, she jumped off the

1 lawn mower and attempted to flee into the home. But the door
2 was locked. We instructed her to back away and get on the
3 ground, which she's complied.

4 While waiting there and calling to Mr. Mallory,
5 she's been unresponsive to us. She will not say anything.
6 But the only thing she did say with a head nod is when we
7 asked if he had a gun, she slightly shook her head no. But
8 other than that, she's been of no cooperation whatsoever.

9 And she's in earshot of me, so.

10 Ask Miss Nelms if she'll give us consent to search
11 her house.

12 THE COURT: Has there been any sign of movement in
13 the house? I mean, do you have any --

14 MARSHAL SATTERWHITE: Yes.

15 THE COURT: -- reason to suspect somebody's in the
16 house?

17 MARSHAL SATTERWHITE: Yes, ma'am. The team that
18 went to the back of the house noticed there was movement in
19 the back portion of the house.

20 But Miss Nelms is -- we've just asked her if she
21 would consent to us searching the house, and she's not nodding
22 her head or verbalizing anything. She's not making any
23 contact with us at all.

24 THE COURT: Anything further you want to provide to
25 me?

1 MARSHAL SATTERWHITE: No, ma'am.

2 THE COURT: Matt Neese is Miss Nelms's supervising
3 officer; is that correct?

4 MARSHAL SATTERWHITE: That's correct, ma'am. Yes,
5 ma'am.

6 THE COURT: And he's present?

7 MARSHAL SATTERWHITE: He is on scene. He's at the
8 rear of the house with another officer.

9 THE COURT: Has he asked her any questions about
10 Mr. Mallory?

11 MARSHAL SATTERWHITE: I can pull him off. Are you
12 speaking of today, ma'am?

13 THE COURT: Yes.

14 MARSHAL SATTERWHITE: Matt, the judge is on the
15 phone. She wants to know if you've asked Miss Nelms any
16 questions about Mallory today?

17 He says he did. He's coming to give a report.

18 PROBATION OFFICER Neese: Yes, ma'am.

19 THE COURT: Matt, are you there?

20 PROBATION OFFICER Neese: I am. I'm going to get
21 you placed under oath. Ella is going to place you under oath.

22 THE CLERK: Do you solemnly swear that the testimony
23 you're about to give in this case is the truth, the whole
24 truth, and nothing but the truth, so help you God?

25 PROBATION OFFICER Neese: I do.

1 THE COURT: Would you state your name and position?

2 PROBATION OFFICER Neese: Matthew Neese, United
3 States Probation Officer.

4 THE COURT: And, Mr. Neese, you're on scene with
5 Deputy Marshal Satterwhite and Miss Nelms, Misty Nelms's
6 house; is that correct? In Lee County?

7 PROBATION OFFICER Neese: That is correct, yes,
8 ma'am.

9 THE COURT: I believe you said it's 1443 Wallens --
10 Middle Wallens Creek, Duffield, Virginia; correct?

11 PROBATION OFFICER Neese: That's correct.

12 THE COURT: And that's the approved location for
13 Misty Nelms to live while on pretrial supervision?

14 PROBATION OFFICER Neese: That is correct.

15 THE COURT: You were actually supervising Miss Nelms
16 on pretrial supervision; correct?

17 PROBATION OFFICER Neese: That is correct.

18 THE COURT: And I believe earlier today that you
19 provided me information that she'd appeared today and tested
20 positive for the use of amphetamine and methamphetamine.

21 PROBATION OFFICER Neese: That is correct, yes,
22 ma'am.

23 THE COURT: Miss Nelms has, as a condition of her
24 pretrial supervision, that she answer truthfully all inquiries
25 by you?

1 PROBATION OFFICER Neese: She does, yes, ma'am.

2 THE COURT: And she also has a condition that she
3 must submit to warrantless search and seizure of her person
4 and property to ensure that she's complying with her
5 conditions of release?

6 PROBATION OFFICER Neese: That's correct.

7 THE COURT: Have you asked her today whether or not
8 you could go into her home?

9 PROBATION OFFICER Neese: I did not, no, ma'am.

10 THE COURT: Have you asked her any questions today
11 about whether or not Mr. Mallory is present?

12 PROBATION OFFICER Neese: I have asked her if she
13 has had contact with Mr. Mallory. She stated, "not since last
14 Friday."

15 THE COURT: Have you advised Miss Nelms that
16 Mr. Mallory is a fugitive and is wanted by this court?

17 PROBATION OFFICER Neese: I have, yes, ma'am.

18 THE COURT: And have you advised her that she must
19 notify you if she had any contact with Mr. Mallory whatsoever?

20 PROBATION OFFICER Neese: I have, yes, ma'am.

21 THE COURT: And has she made any effort to contact
22 you before?

23 PROBATION OFFICER Neese: She has not, no, ma'am.

24 THE COURT: And, in fact, I think you told me that
25 earlier today she denied that she had any further contact with

1 Mr. Mallory?

2 PROBATION OFFICER Neese: She did.

3 THE COURT: But she did admit to you that she had
4 contact with him on the 19th, the day that he cut his ankle
5 bracelet and absconded?

6 PROBATION OFFICER Neese: She did, yes, ma'am. She
7 stated that he had contacted her to let her know about a -- I
8 believe it was either Lee or Wise County -- warrant that he
9 had.

10 THE COURT: Did she provide any information at all
11 about his whereabouts or how he contacted her?

12 PROBATION OFFICER Neese: She did not.

13 THE COURT: Do you have any other information that
14 you think is pertinent to the Court in deciding whether or not
15 to issue a search warrant for Mr. Mallory at this residence,
16 1443 Middle Wallens Creek?

17 PROBATION OFFICER Neese: No, Your Honor.

18 THE COURT: All right. Thank you.

19 May I speak to Mr. Satterwhite again.

20 MARSHAL SATTERWHITE: You've got me, ma'am.

21 THE COURT: Mr. Satterwhite, you still remain under
22 oath. Do you have any further information that you think is
23 pertinent to the warrant?

24 MARSHAL SATTERWHITE: No, ma'am, I don't.

25 THE COURT: Based on what I've heard, I'm going to

1 find that there's probable cause to believe that Mr. Mallory
2 is present at the residence and I'm going to issue the
3 warrant.

4 May we message it to you -- or e-mail it to you
5 Mr. Satterwhite?

6 MARSHAL SATTERWHITE: That would be great, ma'am.
7 Thank you.

8 THE COURT: Okay. We will do that. We're going to
9 go off the record.

10 MARSHAL SATTERWHITE: Thank you, ma'am.

11 And what I'll do --

12 THE COURT: Wait just one moment.

13 (FTR recording ended at 3:42 p.m.)
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15 **REPORTER'S CERTIFICATE**

16
17 I, DONNA J. PRATHER, do hereby certify that the
18 above and foregoing, consisting of 10 pages, constitutes a
19 true and accurate transcript of the FTR recording and is a
20 full, true and complete transcript of the proceedings to the
21 best of my ability.

22 Dated this 30th day of July, 2019.
23

24 S/Donna Prather
25 DONNA J. PRATHER, RPR, CRR, CBC, CCP
Federal Official Court Reporter